

on involuntary allotment of military pay.

(b) The Under Secretary of Defense (Comptroller) shall:

(1) Establish, as necessary, procedures supplemental to those promulgated by the Under Secretary of Defense (Personnel and Readiness) to administer and process involuntary allotments from the pay of members of the Military Services; this includes the authority to promulgate forms necessary for the efficient administration and processing of involuntary allotments.

(2) Ensure that the Director, DFAS:

(i) Implements procedures established by the Under Secretary of Defense (Personnel and Readiness) and the Under Secretary of Defense (Comptroller).

(ii) Considers whether the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. appendix sections 501–591), has been complied with under 5 U.S.C. 5520a(k) prior to establishing an involuntary allotment against the pay of a member of the Military Services.

(iii) Acts as the Department of Defense Executive Agent for Department of Defense forms necessary to process involuntary allotments.

(c) The Heads of the Department of Defense Components shall urge military personnel to meet their just financial obligations, since failure to do so damages their credit reputation and affects the public image of all Department of Defense personnel. See DoD Directives 1000.10,³ 1000.11,⁴ and 5500.7.⁵

(d) The Secretaries of the Military Departments shall:

(1) Establish, as necessary, procedures to administer and process involuntary allotments from the pay of members of the Military Services. This includes designating those commanders, or other officials who may act in the absence of the commander, who shall be responsible for determining whether a member's absence from a judicial proceeding was caused by exigencies of military duty, and establishing appeal procedures regarding such determinations.

(2) Require commanders to counsel members to pay their just debts, including complying, as appropriate, with court orders and judgments for the payment of alimony or child support.

(3) Emphasize prompt command action to assist with the processing of involuntary allotment applications.

(e) The Chief, Office of Personnel and Training, for the Coast Guard shall:

(1) Establish, as necessary, procedures supplemental to those promulgated by the Under Secretary of Defense (Personnel and Readiness) to administer and process involuntary allotments from the pay of members of the Military Services; this includes the authority to promulgate forms necessary for the efficient administration and processing of involuntary allotments.

(2) Ensure that the Commanding Officer, Coast Guard Pay and Personnel Center:

(i) Implements procedures established by the Under Secretary of Defense (Personnel and Readiness) and Chief, Office of Personnel and Training.

(ii) Considers whether the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. appendix sections 501–591), has been complied with under 5 U.S.C. 5520a(k) prior to establishing an involuntary allotment against the pay of a member of the Military Services.

(iii) Acts as the Coast Guard Executive Agent for forms necessary to process involuntary allotments.

PART 113—INDEBTEDNESS PROCEDURES OF MILITARY PERSONNEL

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³See footnote 1 to §112.4(a)(1).

⁴See footnote 1 to §112.4(a)(1).

⁵See footnote 1 to §112.4(a)(1).

Office of the Secretary of Defense

§ 113.3

AUTHORITY: 5 U.S.C. 5520a(k) and 10 U.S.C. 113(d).

SOURCE: 60 FR 1722, Jan. 5, 1995, unless otherwise noted.

§ 113.1 Purpose.

This part implements policy, assigns responsibilities, and prescribes procedures under 32 CFR part 112 governing delinquent indebtedness of members of the Military Services.

§ 113.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is not operating as a Military Service in the Navy by agreement with the Department of Transportation), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”). The term “Military Services,” as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

§ 113.3 Definitions.

(a) *Appearance*. The presence and participation of a member of the Military Services, or an attorney of the member’s choosing, throughout the judicial proceeding from which the judgment was issued that is the basis for a request for enforcement through involuntary allotment.

(b) *Applicant*. The original judgment holder, a successor in interest, or attorney or agent thereof who requests an involuntary allotment from a member of the Military Services pursuant to DoD Directive 1344.9.¹

(c) *Pay subject to involuntary allotment*. For purposes of complying with 32 CFR part 112 and 5 U.S.C. 5520a(k), pay subject to involuntary allotment shall be determined by:

(1) Including:

(i) Basic pay but excluding reduction for education for education benefits under section 38 U.S.C. 1411 (“New G.I. Bill”).

(ii) Special pay (including enlistment and reenlistment bonuses).

(iii) Incentive pay.

(iv) Accrued leave payments (basic pay portion only).

(v) Readjustment pay.

(vi) Severance pay (including disability severance pay).

(vii) Lump-sum Reserve bonus.

(viii) Inactive duty training pay.

(2) Excluding:

(i) Retired pay (including disability retired pay).

(ii) Retainer pay.

(iii) Separation pay, Voluntary Separation Incentive (VSI), and Special Separation Benefit (SSB).

(iv) Allowances paid under titles 10 and 37 of the United States Code (e.g., Chapter 53 of title 10 and Chapter 7 of title 37, respectively) and other reimbursements for expenses incurred in connection with duty in the Military Service or allowances in lieu thereof.

(v) Payments not specifically enumerated in § 113.3(c)(1).

(3) After including the items in § 113.3(c)(1), subtracting the following pay items to compute the final earnings value of the pay subject to involuntary allotment:

(i) Federal and State employment and income tax withholding (amount limited only to that which is necessary to fulfill member’s tax liability).

(ii) FICA tax.

(iii) Amounts mandatorily withheld for the United States Soldiers’ and Airmen’s Home.

(iv) Deductions for the Servicemen’s Group Life Insurance coverage.

(v) Retired Serviceman’s Family Protection Plan.

(vi) Indebtedness to the United States.

(vii) Fines and forfeitures ordered by a court-martial or a commanding officer.

(viii) Amounts otherwise required by law to be deducted from a member’s pay (except payments under 42 U.S.C. 659, 661, 662, and 665).

(d) *Preponderance of the evidence*. A greater weight of evidence that is more credible and convincing to the mind. That which best accords with reason

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.